

**RULES
OF
THE TENNESSEE REAL ESTATE COMMISSION**

**CHAPTER 1260-01
LICENSING**

TABLE OF CONTENTS

1260-01-.01	Applications for Examinations	1260-01-.12	Fees
1260-01-.02	Examinations	1260-01-.13	Repealed
1260-01-.03	Repealed	1260-01-.14	Filing of Documents
1260-01-.04	Licenses	1260-01-.15	Errors and Omissions Insurance Coverage
1260-01-.05 through 1260-01-.10	Repealed	1260-01-.16	Lapsed Errors and Omissions Insurance
1260-01-.11	Use of Education and Recovery Account Earnings	1260-01-.17	Fingerprinting

1260-01-.01 APPLICATIONS FOR EXAMINATIONS.

- (1) Affiliate Brokers. Applicants for the affiliated brokers examination must follow the procedures published by the testing vendor approved by the Tennessee Real Estate Commission concerning appointments for testing information required, and deadlines for submission of examination applications.
- (2) Brokers. Applications for the brokers examination must follow the procedures published by the testing vendor approved by the Tennessee Real Estate Commission concerning appointments for testing, information required, and deadlines for submission of examination applications.
- (3) An applicant who passes an examination is not necessarily qualified for licensure.
- (4) No person shall be eligible for examination or be considered for licensure unless two (2) years have passed from the date of expiration of probation, parole or conviction, or from the date of release from incarceration, whichever is later in time. This restriction shall apply to all felonies, and to misdemeanors which involve the theft of money, services, or property. An applicant who appears before the Commission requesting licensure and who is denied will not be eligible for reconsideration for six (6) months from the date of denial.

Authority: T.C.A. §§ 62-13-112, 62-13-203, 62-13-301, 62-13-303, and 62-13-312. **Administrative History:** Original rule certified June 7, 1974. Repeal and refiled March 3, 1980; effective April 27, 1980. Repeal and new rule filed April 17, 1985; effective May 17, 1985. Amendment filed September 16, 1987; effective October 31, 1987. Amendment filed November 21, 1988; effective January 5, 1989. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed July 31, 2006; effective October 14, 2006. Amendment filed December 3, 2007; effective February 16, 2008.

1260-01-.02 EXAMINATIONS.

- (1) All examinations are scheduled in advance by the testing vendor which actually administers them. All applicants for examination must comply with the procedures published by the testing vendor approved by the Tennessee Real Estate Commission.
- (2) (a) The minimum passing requirement for licensees shall be determined by the testing vendor and based on a study which will determine the difficulty of each examination question for an entry level licensee and conducted in accordance with the procedures approved by the Tennessee Real Estate Commission.

(Rule 1260-01-.02, continued)

- (b) An applicant may be excused from the “uniform principles of real estate” portion of the examination if he:
 - 1. holds a license in another state and has successfully completed an examination approved by the Tennessee Real Estate Commission; and
 - 2. has attained on the “uniform principles” portion of such examination at least the minimum passing score requirement.
- (3) Any applicant detected cheating during an examination shall forfeit his right to grading of the examination and may be subject to further action by the Commission.
- (4) In case of failure to pass the examination:
 - (a) the unsuccessful applicant will be given a written analysis of his test results; and
 - (b) the unsuccessful applicant must follow reexamination procedures published by the testing service.

Authority: T.C.A. §§ 62-13-203 and 62-13-304. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed September 30, 1980; effective December 15, 1980. Amendment filed January 21, 1983; effective February 22, 1983. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed October 1, 1998; effective December 15, 1998.

1260-01-.03 REPEALED.

Authority: T.C.A. §62-13-203. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Repeal by Public Chapter 440; effective July 1, 1985.

1260-01-.04 LICENSES.

- (1) No principal broker shall permit a broker, affiliate broker or time-share salesperson under his supervision to engage in the real estate business unless the broker, affiliate broker or time-share salesperson has been issued a valid license and is covered by an errors and omissions insurance policy.
- (2) Each licensee is individually responsible for satisfying all legal requirements for retention of his license, including, but not limited to, paying appropriate fees; and completing real estate education.
- (3) Each licensee in a firm must obtain any desired change of affiliation or status through the firm's principal broker.
- (4) All Tennessee licensees holding nonresident licenses issued in other states shall file copies of such licenses in the Office of the Tennessee Real Estate Commission and with their principal broker.
- (5) A time-share salesperson shall only participate in time-share transactions when he is affiliated with a firm which is affiliated with a registered time-share project.

(Rule 1260-01-.04, continued)

Authority: T.C.A. §§ 62-13-203 and 62-13-102(5). **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed January 21, 1983; effective February 22, 1983. Amendment filed May 11, 1984; effective June 10, 1984. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed October 1, 1998; effective December 15, 1998.

1260-01-.05 REPEALED.

Authority: T.C.A. §§ 62-13-203 and 62-13-208. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed January 21, 1983; effective February 22, 1983. Amendment filed May 11, 1984; effective June 10, 1984. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed March 24, 1994; effective June 7, 1994. Amendment filed December 8, 1999; effective February 21, 2000.

1260-01-.06 REPEALED.

Authority: T.C.A. § 62-13-203. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed January 21, 1983; effective February 22, 1983. Amendment filed October 1, 1998; effective December 15, 1998.

1260-01-.07 REPEALED.

Authority: T.C.A. § 62-13-11. **Administrative History:** Original rule certified June 7, 1974. Repealed March 3, 1980; effective April 27, 1980.

1260-01-.08 REPEALED.

Authority: T.C.A. § 62-13-11. **Administrative History:** Original rule certified June 7, 1974. Repealed March 3, 1980; effective April 27, 1980.

1260-01-.09 REPEALED.

Authority: T.C.A. § 62-13-11. **Administrative History:** Original rule certified June 7, 1974. Repealed March 3, 1980; effective April 27, 1980.

1260-01-.10 REPEALED.

Authority: T.C.A. §§ 62-13-203 and 62-13-208; §6(c), Chapter 810, Public Acts of 1984. **Administrative History:** New rule filed August 27, 1984; effective September 26, 1984. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed October 1, 1998; effective December 15, 1998.

1260-01-.11 USE OF EDUCATION AND RECOVERY ACCOUNT EARNINGS.

- (1) The Commission may utilize earnings of the real estate education and recovery account (established by T.C.A. §62-13-208) to cover expenses incurred in:
 - (a) The performance of functions authorized by T.C.A. §§62-13-107 and 62-13-108; and
 - (b) The preparation and dissemination of information for the benefit of licensees, including whatever training of Commission members and staff is reasonably necessary to enable them to advise licensees on pertinent subjects. (Such training may entail procurement of publications and materials; attendance at seminars and conferences; et cetera.)
- (2) Without limiting the generality of paragraph (1) of this rule, the Commission may utilize education and recovery account earnings to:

(Rule 1260-01-.11, continued)

- (a) Hold or assist in holding seminars concerning regulatory matters and business practices affecting licenses;
 - (b) Monitor and evaluate approved post-licensing courses in real estate in order to ensure that they are structured and conducted to provide maximum benefit to licensees; and
 - (c) Publish and distribute a newsletter containing information of interest to licensees.
- (3) This rule shall not be construed to:
 - (a) Authorize any expenditure or commitment of funds hereunder which would reduce the balance in the education and recovery account to an amount less than five hundred thousand dollars (\$500,000.00); or
 - (b) Preclude the expenditure or commitment of funds specifically appropriated by the General Assembly for any purpose.

Authority: T.C.A. §§ 62-13-103 and 62-13-208. **Administrative History:** Original rule filed April 30, 1987; effective June 14, 1987.

1260-01-.12 FEES. The following fees shall apply:

- (1) For each examination, a fee to be paid to the testing vendor as set by state contract;
- (2) For the issuance of an original license, a fee to be paid to the Commission of one hundred dollars (\$100.00);
- (3) For each renewal of a license, a fee to be paid to the Commission of eighty dollars (\$80.00);
- (4) A fee to be paid to the Commission for the following:
 - (a) Change of firm address, fifty dollars (\$50.00);
 - (b) Change of Principal Broker, twenty-five dollars (\$25.00);
 - (c) Transfer of affiliation or transfer in or out of retirement status, twenty-five dollars (\$25.00);
 - (d) Commission manual, ten dollars (\$10.00);
 - (e) Certified copies, one dollar (\$1.00) per page;
 - (f) Copies, twenty-five cents (\$.25) per page;
 - (g) Printouts of licensee information, charges will be based upon the cost of producing said printout;
 - (h) Certification of licensure, twenty-five dollars (\$25.00);
 - (i) Printouts of licensee continuing education, ten dollars (\$10.00);
 - (j) Change of name, ten dollars (\$10.00);
 - (k) Duplicate license, ten dollars (\$10.00);

(Rule 1260-01-.12, continued)

- (l) Bad Checks must be made good within five (5) days after the licensee is notified. Any bad check not made good within sixty (60) days of the notification will be subject to a one hundred dollar (\$100.00) fee for collection.
- (5) A penalty fee of fifty dollars (\$50.00) per month, or portion thereof, for failing to timely renew a license if the licensee reinstates the license within the sixty (60) day time frame set forth in T. C. A. §62-13-319(a); provided however, the Commission shall have the discretion to waive or lower said fee for good cause shown.
- (6) When any individual applies for an original license as a broker, affiliate broker or time-share salesperson, the applicant shall pay, in addition to the original license fee, a fee in the amount of ten dollars (\$10.00) for deposit into the real estate education and recovery account.

Authority: T.C.A. §§ 62-13-203, 62-13-307, 62-13-208(c)(1), 62-13-308, and 62-13-319. **Administrative History:** Original rule filed July 14, 1989; effective August 28, 1989. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed October 1, 1998; effective December 15, 1998. Amendment filed December 8, 1999; effective February 21, 2000. Amendment filed December 3, 2007; effective February 16, 2008. Amendment filed December 3, 2012; effective March 3, 2013.

1260-01-.13 REPEALED.

Authority: T.C.A. § 62-13-304(a). **Administrative History:** Original rule filed August 16, 1989; effective September 30, 1989. Repeal filed March 24, 1994; effective June 7, 1994.

1260-01-.14 FILING OF DOCUMENTS

When documents are remitted to the office of the Tennessee Real Estate Commission by mail for filing, the date of filing shall be determined by the official postmark on such mail. Documents submitted by hand-delivery shall not be considered filed if received after the Commission office hours of the date of any applicable deadline.

Authority: T.C.A. § 62-13-203. **Administrative History:** Original rule filed September 13, 1989; effective October 28, 1989.

1260-01-.15 ERRORS AND OMISSIONS INSURANCE COVERAGE

It shall be a requirement for an active licensee to carry errors and omissions insurance to cover all activities contemplated under the Tennessee Real Estate Broker License Act unless the Commission is unable to obtain coverage pursuant to T.C.A. §62-13-112(g) which would void the requirement of coverage under the applicable contract period.

- (1) A licensee who places his license in an inactive or retired status is not required to carry errors and omissions insurance until such time as his license is activated.
- (2) New licensees, licensees who activate their license from an inactive or retired status, and licensees who reinstate their license from an expired status at a time other than the beginning of the licensing period shall pay a prorated premium in accordance with a schedule provided by the insurance provider.
- (3) The Commission shall perform random audits to assure that licensees have met the requirements of this rule.
- (4) Any independently obtained errors and omissions insurance policy shall, at a minimum, be issued upon the same terms and conditions as the policy obtained by the Tennessee Real Estate Commission pursuant to T.C.A. § 62-13-112, including, but not limited to, the limits of coverage, the permissible deductible, the permissible exemptions and the term of the policy.

(Rule 1260-01-.15, continued)

Authority: T.C.A. §§ 62-13-203 and 62-13-212. **Administrative History:** Original rule filed October 15, 1990; effective November 29, 1990. Amendment filed October 1, 1998; effective December 15, 1998. Amendment filed December 3, 2007; effective February 16, 2008.

1260-01-.16 LAPSED ERRORS AND OMISSIONS INSURANCE.

(1) Licensees Who Fail to Maintain Errors & Omissions (E&O) Insurance

- (a) **Penalty fees for Reinstatement of a Suspended License:** Any licensee whose license is suspended for more than thirty (30) days pursuant to T.C.A. § 62-13-112 for failure to maintain E&O insurance must provide proof of insurance that complies with the required terms and conditions of coverage to the Commission and must pay the following applicable penalty fee in order to reinstate the license:
 - 1. For a license suspended due to a lapse in E&O coverage for more than thirty (30) days but within one hundred twenty (120) days:
 - (i) Two Hundred Dollars (\$200.00) if the licensee's insurance carrier back-dated the licensee's E&O insurance policy to indicate continuous coverage; or
 - (ii) Four Hundred Dollars (\$400.00) if the licensee's insurance carrier did not back-date the licensee's E&O insurance policy to indicate continuous coverage.
 - 2. For a license suspended due to a lapse in E&O coverage for more than one hundred twenty (120) days but less than six (6) months, a Five Hundred Dollar (\$500.00) penalty fee;
 - 3. For a license suspended due to a lapse in E&O coverage for six (6) months up to one (1) year, a Five Hundred Dollar (\$500.00) penalty fee plus a penalty fee of One Hundred Dollars (\$100.00) per month, or portion thereof, for months six (6) through twelve (12).
- (b) **Conditions for Reissuance of a Revoked License:** Upon revocation of a license pursuant to T.C.A. § 62-13-112 for failure to maintain E&O insurance, any individual seeking reissuance of such license shall:
 - 1. Reapply for licensure, including payment of all fees for such application;
 - 2. Pay the penalty fees outlined in subparagraph (a) above;
 - 3. Pass all required examinations for licensure, unless the Commission waives such examinations; and
 - 4. Meet any current education requirements for licensure, unless the Commission waives such education requirements.

(2) Principal Brokers of Licensees Who Fail to Maintain E&O Insurance:

- (a) A principal broker shall ensure, at all times, that all licensees affiliated with that principal broker shall hold E&O insurance as required by law. A failure to do so shall constitute failing to exercise adequate supervision over the activities of a licensed affiliated broker.

(Rule 1260-01-.16, continued)

- (b) For any principal broker who has an affiliated licensee whose license is suspended pursuant to T.C.A. § 62-13-112 for failure to maintain E&O insurance, there shall be no penalty to the principal broker if either of the following two (2) circumstances occur within thirty (30) days of that affiliated licensee's license suspension:
 - 1. The affiliated licensee has provided proof of insurance which complies with the required terms and conditions of coverage to the Commission; or
 - 2. The principal broker releases that affiliated licensee whose license is suspended for failure to maintain E&O insurance.
- (c) After the aforementioned thirty (30) day period, if the affiliated licensee has neither provided the required proof of insurance nor been released by the principal broker, the Commission authorizes a formal hearing on the matter of the principal broker's failure to exercise adequate supervision over an affiliated licensee who failed to maintain E&O insurance but also authorizes that a consent order shall be sent to the principal broker, offering that principal broker the opportunity to settle the matter informally, thereby making formal hearing proceedings unnecessary, according to the following schedule:
 - 1. Notwithstanding the provisions of Tenn. Comp. R. & Regs. 1260-02-.32, if the principal broker's affiliated licensee reinstates his or her license, or the principal broker releases the affiliated licensee, more than thirty (30) days after suspension but within one hundred twenty (120) days after suspension, the consent order shall contain the following civil penalties:
 - (i) Two Hundred Dollars (\$200.00) if the affiliated licensee's insurance carrier back-dated the licensee's E&O insurance policy to indicate continuous coverage; or
 - (ii) Four Hundred Dollars (\$400.00) if the affiliated licensee's insurance carrier did not back-date the licensee's E&O insurance policy to indicate continuous coverage.
 - 2. If the principal broker's affiliated licensee reinstates his or her license, or the principal broker releases the affiliated licensee, more than one hundred twenty (120) days after suspension, the consent order referenced in this subparagraph (c) above shall contain a civil penalty of one thousand dollars (\$1,000.00).
 - 3. Where a principal broker does not accept any authorized consent order for failure to supervise an affiliated licensee's E&O insurance, the hearing shall be held before an administrative law judge sitting alone, pursuant to the Uniform Administrative Procedures Act, compiled at title 4, chapter 5.
 - 4. Nothing in this rule shall be construed as limiting the Commission's authority to:
 - (i) Authorize a consent order in a different amount than listed herein;
 - (ii) Seek any other legal discipline – including revocation or suspension of a license – for a failure to supervise an affiliated licensee's E&O insurance;
 - (iii) Review an initial order under the Uniform Administrative Procedures Act; or
 - (iv) Not seek discipline against a principal broker for failure to supervise an affiliated broker's maintenance of E&O insurance if the Commission determines that such discipline is not appropriate under the facts of that matter.

(Rule 1260-01-.16, continued)

Authority: T.C.A. §§ 62-13-203, 62-13-112, and 62-13-312. **Administrative History:** Original rule filed February 7, 2014; effective May 8, 2014.

1260-01-.17 FINGERPRINTING.

- (1) Any initial applicant who is required to submit a complete and legible set of fingerprints for the purpose of obtaining a criminal background check pursuant to T.C.A. § 62-13-303 shall submit said fingerprints in an electronic format.
 - (a) An initial applicant shall be deemed to have supplied the required set of fingerprints if that applicant causes a private company contracted by the State to electronically transmit that applicant's classifiable prints directly to the TBI and FBI to forward an electronic report based on that applicant's fingerprints to the Commission.
 - (b) All sets of classifiable fingerprints required by this rule shall be furnished at the expense of the applicant.
 - (c) The applicant shall make the arrangements for the processing of his or her fingerprints with the company contracted by the State to provide electronic fingerprinting services directly and shall be responsible for the payment of any fees associated with processing of fingerprints to the respective agent authorized by the TBI and FBI.
 - (d) Applicants shall in all cases be responsible for paying application fees for licensure as established by the Commission.
 - (e) In addition to new applicants for a broker, affiliate broker, time-share salesperson, or acquisition agent license, the following are considered "initial applicants" for purposes of this rule and, therefore, are required to submit fingerprints in an electronic format for the purpose of obtaining a criminal background check:
 1. Any former licensee who must reapply in order to obtain reissuance of his or her license; and
 2. Any person who previously held an affiliate broker license but no longer holds said license at the time such person applies for a broker license. This does not include any person who has an affiliate broker license which is inactive or retired at the time of application for a broker license.
- (2) In the event that an applicant furnishes unclassifiable fingerprints or fingerprints which are unclassifiable in nature, the Commission may refuse to issue the requested license.
 - (a) For the purposes of this rule, "unclassifiable prints" means that the electronic scan or the print of the person's fingerprints cannot be read, and therefore cannot be used to identify the person.
 - (b) Should an applicant's fingerprints be rejected by the TBI or FBI, the applicant shall pay any fees assessed by the TBI or FBI for resubmission.

Authority: T.C.A. §§ 62-13-203 and 62-13-303. **Administrative History:** Original rule filed February 7, 2014; effective May 8, 2014.